

FOX LAW P.C.

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August 2, 2016

Certified Mail – Return Receipt Requested
#7008 0500 0000 5042 4067
and First Class Mail!

Speedway LLC
500 Speedway Drive
Enon, OH 45323

Re: Rod Slappy-Sutton and Jean Sutton, h/w v Speedway LLC
Montgomery County CCP Civil Action No. 2016-15475

Dear Sir/Madam:

Enclosed please find a time-stamped copy of plaintiffs Rod Slappy-Sutton and Jean Sutton's complaint which was filed with the court on August 1, 2016.

Kindly arrange to send this complaint to your insurance carrier for handling. Please note that the complaint requires a response within twenty (20) days of your receipt of this letter.

Thank you for your consideration in this matter.

Very truly yours,


JOHN F. FOX, JR.

JFF/am

Enclosure

RECEIVED
AUG 3 - 2016
SPEEDWAY LAW

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

ROD SLAPPY-SUTTON

vs.

SPEEDWAY LLC

NO. 2016-15475

**CIVIL COVER SHEET**

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: JOHN F FOX JR, Esq., ID: 31854

Self-Represented (Pro Se) Litigant ☐

Class Action Suit ☐ Yes ☒ No

MDJ Appeal ☐ Yes ☒ No

Money Damages Requested ☒

Commencement of Action:

Complaint

Amount in Controversy:

More than \$50,000

Case Type and Code

Tort: _____

Premises Liability

Other: _____

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

ROD SLAPPY-SUTTON

vs.

SPEEDWAY LLC

NO. 2016-15475

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268

(610) 279-9660, EXTENSION 201

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Attorney for Plaintiffs
Rod Slappy-Sutton and
Jean Sutton, h/w

ROD SLAPPY-SUTTON
and
JEAN SUTTON h/w
5 LANFAIR ROAD
CHELTENHAM, PA 19012

Vs.

SPEEDWAY LLC
500 SPEEDWAY DRIVE
ENON, OH 45323

MONTGOMERY COUNTY,
PENNSYLVANIA

COURT OF COMMON PLEAS

NO.

CIVIL ACTION-LAW

JURY TRIAL DEMANDED

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Attorney for Plaintiffs
Rod Slappy-Sutton and
Jean Sutton, h/w

ROD SLAPPY-SUTTON
and
JEAN SUTTON h/w
5 LANFAIR ROAD
CHELTENHAM, PA 19012

Vs.

SPEEDWAY LLC
500 SPEEDWAY DRIVE
ENON, OH 45323

MONTGOMERY COUNTY,
PENNSYLVANIA

COURT OF COMMON PLEAS

NO.

CIVIL ACTION-LAW

JURY TRIAL DEMANDED

COMPLAINT IN CIVIL ACTION

Plaintiffs Rod Slappy-Sutton and Jean Sutton, by and through their undersigned counsel, hereby file their complaint against defendant Speedway LLC as follows:

1. Plaintiff Rod Slappy-Sutton is an adult individual who resides at 5 Lanfair Road, Cheltenham, Pennsylvania 19012.
2. Plaintiff Jean Sutton is an adult individual who resides at 5 Lanfair Road, Cheltenham, Pennsylvania 19012 and is plaintiff Rod Slappy-Sutton's wife.
3. Defendant Speedway LLC is a corporation organized and existing under the laws of the State of Ohio with a principal place of business located at 500 Speedway Drive, Enon, Ohio, 45232.
4. At all times relevant hereto, Defendant owned, managed, operated, maintained and controlled the Speedway Convenience Store, ("the Premises"), located at 258 South Easton Road, Glenside, Pennsylvania 19038

5. At all times material hereto, Defendant acted or failed to act by and through its agents, servants, workman and/or employees who were then and there acting in the scope of its authority and in the course of its employment with defendant and in furtherance of defendant's business on behalf of Defendant.

6. Defendant acting by and through its agents, servants, workman and/or employees acting as aforesaid, carelessly and negligently allowed a dangerous and defective condition to exist, to wit, an unmarked sidewalk curb in front of the entrance of the Premises which was substantially similar in color to the surface of the parking lot starting just below the curb and by allowing said condition to exist for an unreasonable period of time causing plaintiff Rod Slappy-Sutton to trip and fall onto the surface of the parking lot on January 19, 2016 at approximately 6:45 p.m.

7. Defendant breached its duty to properly maintain the aforesaid sidewalk curb so as to keep safe for lawful business invitees such as plaintiff Rod Slappy-Sutton.

8. On January 19, 2016 at approximately 6:45 p.m., plaintiff Rod Slappy-Sutton was a lawful business invitee, having just come out of Speedway Convenience Store after purchasing a hot dog for his son at the Premises. Upon leaving the Premises, plaintiff Rod Slappy-Sutton walked through the exit door toward his motor vehicle when he was suddenly caused to trip and fall onto the surface of the parking lot due to the above described condition, suffering serious injuries which are set forth below.

9. The aforesaid accident was due solely to the negligence and carelessness of Defendant acting as aforesaid and was due in no manner whatsoever to any act or failure to act on the part of plaintiff Rod Slappy-Sutton.

COUNT I
PLAINTIFF ROD SLAPPY-SUTTON v. DEFENDANT SPEEDWAY LLC

10. Plaintiff Rod Slappy-Sutton incorporates by reference the allegations contained in paragraphs 1 through 9 of his complaint as if fully set forth herein at length.

11. The negligence and carelessness of Defendant acting as aforesaid, consisted of the following:

- (a) Allowing a dangerous and defective condition to exist at the walkway entrance of the Premises which Defendant knew or should have known existed by the exercise of reasonable care;
- (b) Allowing an unmarked sidewalk curb to exist at the walkway entrance of the Premises which was substantially similar in color to the parking lot surface starting just below the curb for an unreasonable period of time;
- (c) Failing to warn customers such as plaintiff Rod Slappy-Sutton of the height difference between the sidewalk curb and the surface of the parking lot when defendant knew or should have known that the curb was substantially similar in color to the surface of the parking lot starting just below the curb.
- (d) Failing to correct, remove, treat and maintain the dangerous condition including but not limited to painting the curb to distinguish the height difference between the surface of the curb and the surface of the parking lot.
- (e) Failing to provide plaintiff with warnings of the unmarked sidewalk curb;
- (f) Failing to barricade or cordon off the area of the unmarked sidewalk curb;

- (g) Failing to make reasonable and regular inspections of the sidewalk curb to observe any dangerous conditions, including unmarked conditions that may be hazardous to business invitees such as plaintiff Rod Slappy-Sutton;
- (h) Allowing said dangerous and defective condition to exist in an area which Defendant knew or should have known that business invitees such as plaintiff would transverse this area to exit the convenience store;
- (i) Failing to provide plaintiff Rod Slappy-Sutton with safe egress; and
- (j) Failing to monitor and control customer activities as they proceeded through the exit across a defective and dangerous condition.

12. Solely as a result of the negligence and carelessness of defendant, plaintiff Rod Slappy-Sutton has suffered injuries which are serious and permanent in nature, including but not limited to a left quadriceps tendon rupture and a right quadriceps tendon rupture, some or all of which may be permanent and all of which injuries have caused him to seek medical treatment.

13. As a result of the negligence and carelessness of defendant, plaintiff Rod Slappy-Sutton has been or will be required to receive and undergo medical attention and to expend various sums of money and to incur various expenses and she may be required to continue to expend such sums or incur such expenditures for an indefinite time in the future.

14. As a result of the negligence and carelessness of defendant, plaintiff Rod Slappy-Sutton has a medically determined physical impairment which prevents plaintiff Rod Slappy-Sutton from adequately performing all or substantially all of the material acts and duties which constitute plaintiff Rod Slappy-Sutton's usual customary activities prior to the accident.

15. As a further result of the negligence and carelessness of defendant, plaintiff Rod Slappy-Sutton has or may hereinafter incur other financial expenses which do or may achieve

amounts that plaintiff Rod Slappy-Sutton may otherwise be entitled to recover including payment for medical bills.

16. As a direct result of the negligence and carelessness of defendant, its agents, servants, workman and employees, plaintiff Rod Slappy-Sutton has or may hereinafter suffer severe physical pain, mental anguish, humiliation and embarrassment and he may continue to suffer same for an indefinite time in the future.

17. As a further result of the negligence and carelessness of Defendant, plaintiff Rod Slappy-Sutton suffered a loss of life pleasures which may continue into the future.

18. As a further result of the negligence and carelessness of Defendant, plaintiff Rod Slappy-Sutton has and may continue to suffer severe loss of his earnings and an impairment of his earning capacity and power.

WHEREFORE, Plaintiff Rod Slappy-Sutton demands judgment in his favor and against defendant Speedway LLC in an amount in excess of \$50,000 together with all costs, expenses, attorney's fees and other amounts deemed appropriate by this Honorable Court.

COUNT II
PLAINTIFF JEAN SUTTON v. DEFENDANT SPEEDWAY LLC


19. Plaintiffs incorporate by reference paragraphs 1 through 18 of their complaint as if fully set forth herein at length.

20. At all times material to this cause of action, plaintiff Jean Sutton is the wife of plaintiff Rod Slappy-Sutton.

21. As a direct result of defendant Speedway LLC's negligence and carelessness, plaintiff Jean Sutton has suffered the loss of society, comfort, companionship, services and consortium of her husband, Rod Slappy-Sutton, all to her great detriment and loss.

WHEREFORE, Plaintiff Jean Sutton demands judgment in her favor and against defendant Speedway LLC in an amount in excess of \$50,000 together with all costs, expenses, attorney's fees and other amounts deemed appropriate by this Honorable Court.

FOX LAW, P.C.

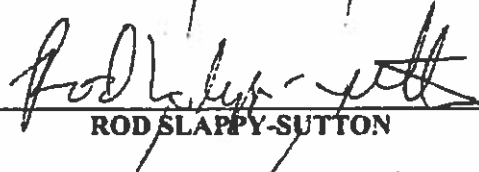
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215-568-6868
Attorney for Plaintiffs
Rod Slappy-Sutton and Jean Sutton, h/w

VERIFICATION

We, **ROD SLAPPY-SUTTON** and **JEAN SUTTON**, hereby state that we are the **Plaintiffs** in this cause of action and verify that the statements made in the foregoing **COMPLAINT IN CIVIL ACTION** are true and correct to the best of our knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 7/27/2016



ROD SLAPPY-SUTTON

Date: 7/27/2016



JEAN SUTTON

0800 690 767

RECEIVED

AUG 3 - 2016

SPEEDWAY LAW

\$1.150
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Stress in the Workplace

